

CHILD NUTRITION AND FOOD DISTRIBUTION DIVISION

MANAGEMENT BULLETIN No.: 97-367

TO:	Summer Food Service Program Sponsors	ISSUE DATE: November 1997
FROM:	Summer Food Service Program Unit	
ATTENTION:	Authorized Representative	
SUBJECT:	Revised FNS Instruction 783-2 on the Special Dietary Needs of Program Participants	

PURPOSE

This Management Bulletin disseminates the updated USDA FNS Instruction 783-2. It details the responsibility and legal requirements for agencies under Section 504 of the Rehabilitation Act of 1973 and the American with Disabilities Act of 1991 (ADA). The Individuals with Disabilities Education Act (IDEA) may also impose requirements on child nutrition program sponsors.

The instruction outlines the policy regarding food substitutions and modifications in the meal patterns of children with disabilities and the special dietary needs of other children. Medical documentation of special dietary needs is required for all children. Included with this Bulletin are two medical statement forms that may be duplicated and used for documentation.

IMPLICATIONS OF USDA FNS INSTRUCTION

When meals are served, sponsors of child nutrition programs are required to offer meals to children with disabilities. Sponsors may also be required to serve additional meals even when program meals are not being offered; make menu modifications; purchase special foods; provide adaptive feeding equipment; and/or provide accessibility. Additionally, children with disabilities must be served meals, in the most integrated setting appropriate to their needs.

Food service directors, child care, and Summer Food Service Program administrators should be aware of the Individual Education Plan (IEP) for a child with a disability. Any child receiving special education and related services has an IEP. The IEP may contain instructions addressing the child's dietary/nutritional needs.

IMPLICATIONS OF USDA FNS INSTRUCTION

I. PARTICIPANTS WITH DISABILITIES

If a child with a disability requires only texture modification(s) to the regular meal, as opposed to a meal pattern modification, the medical statement is no longer required but is **strongly** recommended.

Unless otherwise specified by the physician, the meals modified for texture will

consist only of food items and quantities specified in the regular menu. Sponsors should be aware that some foods are inappropriate for texture modifications, and a prescription may be needed to ensure the child receives an appropriate diet.

Sponsors of child nutrition programs are required to make substitutions or modifications to the meal patterns for those children with disabilities who are unable to consume the meals offered to children without disabilities. Requests for such modifications are to be made on an individual basis by a licensed physician. Sponsors of child nutrition programs are encouraged to use the services of a registered dietitian to assist in carrying out the medical statement, as appropriate. (See the attached sample form, CNFDD-MSD).

All sponsors of child nutrition programs should provide parents or guardians with 7 CFR Part 15b.3 (see attached Exhibit A), so their physician may correctly assess if the disability meets the regulatory criteria.

The physician's medical statement must identify:

- A. The disability and an explanation of why the disability restricts the child's diet;
- B. The major life activity affected by the disability;
- C. The food or foods to be omitted from the diet; and
- D. The food or choice of foods that must be substituted. For example, if the disabling condition makes it necessary for the child to eat a reduced calorie diet or a liquid nutritive formula or supplement, this information must be included in the medical statement.

Children with food allergies, food intolerances, or obesity are not generally considered "disabled," as defined in 7 CFR 15b.3(i) unless otherwise supported by a physician's statement. Consequently, program sponsors are not required to make substitutions for them. However, when in the physician's assessment food allergies may result in severe, life-threatening reactions (anaphylactic reactions) or the obesity is severe enough to substantially limit a major life activity, the child then meets the definition of "disabled person," and the food service personnel must make substitutions as prescribed by the physician.

II. CHILDREN WITH OTHER SPECIAL DIETARY NEEDS

Sponsors of child nutrition programs may, at their discretion, make substitutions for individuals who are not "disabled," as defined in 7 CFR 15b.3(i) (Exhibit A), but who are unable to consume a food item because of medical or other special dietary needs. Such substitutions may be made only on a case-by-case basis and when supported by a statement signed by "a recognized medical authority." In such cases, "recognized medical authority" includes "physicians, physician assistants, and nurse practitioners." (See the attached sample form, CNFDD-MSA).

For participants who do not have a disability, the supporting statement shall include:

- A. An identification of the medical or other special dietary need which restricts the

child's diet;

B. The food or foods to be omitted; and

C. The food or choice of foods that may be substituted.

In most cases, individuals who are overweight or who have elevated blood cholesterol, do not meet the definition of disabled, and sponsors are not required to make meal substitutions for them. The special dietary needs of participants who do not have a disability may be managed within the normal program meal service when a well-planned variety of nutritious foods are available.

III. REIMBURSEMENT

Meals served with authorized substitute food(s) to children are reimbursed at the same rate as meals meeting the regulatory meal pattern. Children and their families cannot be charged for substituted or additional food item(s) specified on a medical statement. This applies to disabled and nondisabled participants. Supplemental funding may be available from special education funds (if substituted food or a special diet is specified in the child's IEP). All authorized special diet expenses, including adaptive feeding equipment and aides, are allowable and may be charged as operating costs to the program.

IV. ACCESSIBILITY

The institutions and sponsors of child nutrition programs are responsible for the accessibility of food service sites and for ensuring the provision of aides, where needed. 7 CFR 15b.26(d)(2) further provides that program agencies ensure that disabled persons participate with nondisabled persons to the maximum extent appropriate to the needs of the disabled person. Food services are to be provided in the most integrated setting appropriate to the needs of the disabled person.

V. COOPERATION

When implementing the guidelines of this instruction, food service personnel should work closely with parent(s) and with all other school, child care, medical, and community personnel who are responsible for the health, well-being, and education of children with disabilities. This cooperation is particularly important when accommodating children whose disabling condition require significant modifications or personal assistance.

If you have any questions regarding this Management Bulletin, please contact Joye McKetty, Child Nutrition Consultant, Summer Food Service Program Unit, at (916) 323-0213 or leave a message at the toll free number (800) 333-5675.

Duwayne Brooks, Director	Jane Irvine Henderson, Ph.D.
Child Nutrition and Food Distribution Division Assistant Superintendent of Public Instruction	Deputy Superintendent Child, Youth and Family Services Branch

Attachments: *mailed*

1) CNFDD-MSD (3/95) Medical Statement for Participants with Disabilities Requiring Special Meal

2) CNFDD-MSA (3/95) Medical Statement for Participants with Allergies/Chronic Diseases

3) 7 CFR 15b

4) Prima Facie Elements-Disability

This is an equal opportunity program. If you believe you have been discriminated against because of race, color, ethnic/national origin, age, sex, religion or disability, you should write immediately to the Secretary of Agriculture, Washington, D.C. 20250